



**U S Army Corps
of Engineers
Huntington District**

Public Notice

In reply refer to Public Notice No.
51282

Issue Date: October 5, 2007

Stream: Ohio River mile 322.4 on
the left descending bank

Closing Date: November 5, 2007

Please address all comments and inquiries to:

U.S. Army Corps of Engineers, Huntington District

ATTN: CELRH-OR-FS Public Notice No. 200600720-1

502 Eighth Street

Huntington, West Virginia 25701-2070

Phone: (304) 399-5710

PUBLIC NOTICE: The purpose of this public notice is to inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

REGULATORY PROGRAM: Since its early history, the U.S. Army Corps of Engineers (Corps) has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the Corps Regulatory Program.

SECTION 10: The Corps is directed by Congress under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate all work or structures in or affecting the watercourse, condition or capacity of navigable waters of the United States (U.S.). The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

SECTION 404: The Corps is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the discharge of dredged and fill material into all waters of the United States (U.S.), including wetlands. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

TO WHOM IT MAY CONCERN: The following application has been submitted for a Department of the Army Permit under the provisions of Section 10 of the Rivers and Harbors Act 1899 and Section 404 of the Clean Water Act.

APPLICANT: Mansbach Metal
1900 Front Street
Ashland, Kentucky 41101

LOCATION: The proposed project would be located along the left descending bank of the Ohio River, 322.4 miles downstream of Pittsburgh, Pennsylvania, near the Town of Ashland, in Boyd County, Kentucky as depicted in the attached Location Map (Drawing 1).

PROJECT HISTORY: Mansbach Metals is authorized to operate a coal and scrap metal loading dock and barge removal facility along the left descending bank of the Ohio River from mile 322.15 to mile 322.45 as depicted in Drawing 2.

DESCRIPTION OF THE PROPOSED WORK: The applicant is requesting authorization to perform routine maintenance dredging on an as-needed basis from Ohio River mile 322.39 to 322.47 (approximate), on the left descending bank, for a period of ten (10) years. The purpose of the project is to improve barge access. The applicant would dredge an area approximately 410 feet in length parallel to waters edge at normal pool shore line (NPSL) of 515.0 feet and extending no further than 80 feet riverward of waters edge at NPSL. The maximum depth of the initial dredging operation is expected to be no more than 6 feet and would result in the removal of approximately 2,200 cubic yards of sediment.

The applicant proposes in-stream disposal of dredged material in an area adjacent and parallel to the proposed dredge area. Dredged material would be disposed in an area no more than 500 feet in length parallel to waters edge at NPSL extending no further than 175 feet riverward of waters edge at NPSL. The applicant has indicated the bottom elevation of the disposal area would be no greater than 480 feet.

Plans of the proposed work are provided in Drawings 3 and 4.

WATER QUALITY CERTIFICATION: A Section 401 Water Quality Certification is required for this project. It is the applicant's responsibility to obtain certification from the Kentucky Division of Water.

HISTORIC AND CULTURAL RESOURCES: The National Register of Historic Places has been consulted and it was determined there are no properties currently listed on the register that are in the area affected by the project. A copy of this public notice will be sent to the State Historic Preservation Office for their review. Comments concerning archeological sensitivity of a project area should be based upon collected data.

ENDANGERED/THREATENED SPECIES REVIEW: This project is located within the known or historic range of three endangered mussel species: the Pink mucket pearly mussel (*Lampsilis orbiculata*), Ring pink (*Obovaria retusa*) and Fanshell (*Cyprogenia stegaria*). This public notice serves as a request to the U.S. Fish and Wildlife Service for any additional information they may have on whether any listed or proposed to be listed endangered or threatened species may be present in the area which would be affected by the activity, pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended).

PUBLIC INTEREST REVIEW AND COMMENT: Any person who has an interest that may be adversely affected by the issuance of a permit may request a public hearing. The request must be submitted in writing to the District Engineer on or before the expiration date of this notice and must clearly set forth the interest which may be adversely affected and the manner in which the interest may be adversely affected by the activity. This application will be reviewed in accordance with 33 CFR 320-331, the Regulatory Program of the U. S. Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the U. S. Environmental Protection Agency pursuant to Section 404(b) (1) of the CWA. Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered including the cumulative effects thereof; of those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people.

Written statements on these factors received in this office on or before the expiration date of this public notice will become a part of the record and will be considered in the final determination. A permit will be granted unless its issuance is found to be contrary to the public interest.

SOLICITATION OF COMMENTS: The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. For accuracy and completeness of the administrative record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to:

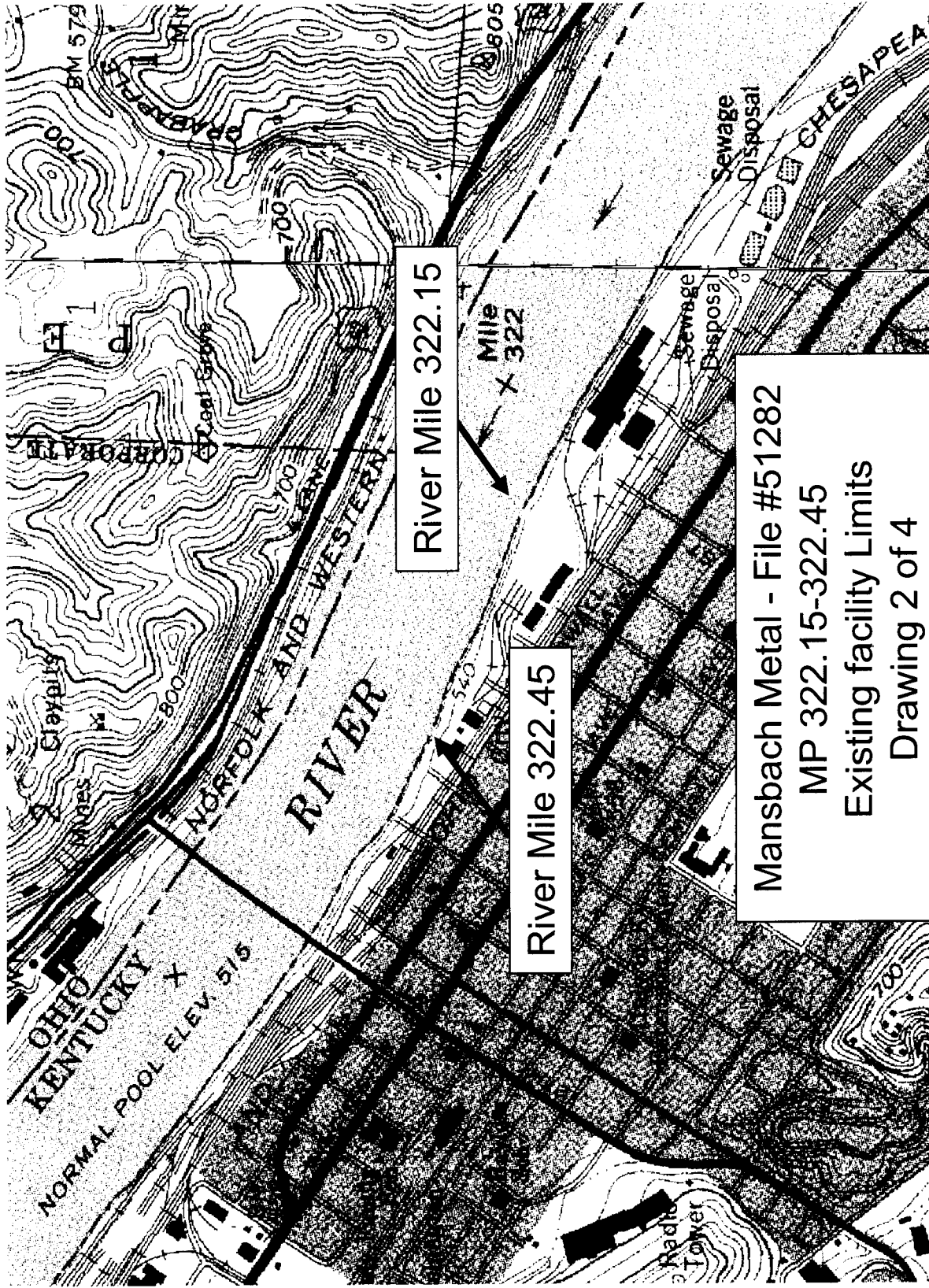
U.S. Army Corps of Engineers, Huntington District
Attn. CELRH-OR-FS, Public Notice 200600720-1
502 Eighth Street
Huntington, West Virginia 25701-2070

Please note names and addresses of those who submit comments in response to this public notice become part of our administrative record and, as such, are available to the public under provisions of the Freedom of Information Act. Thank you for your interest in our nation's water resources. If you have any questions concerning this public notice, please contact Mr. Richard A. Hemann of the South Regulatory Section at 304-399-5710.

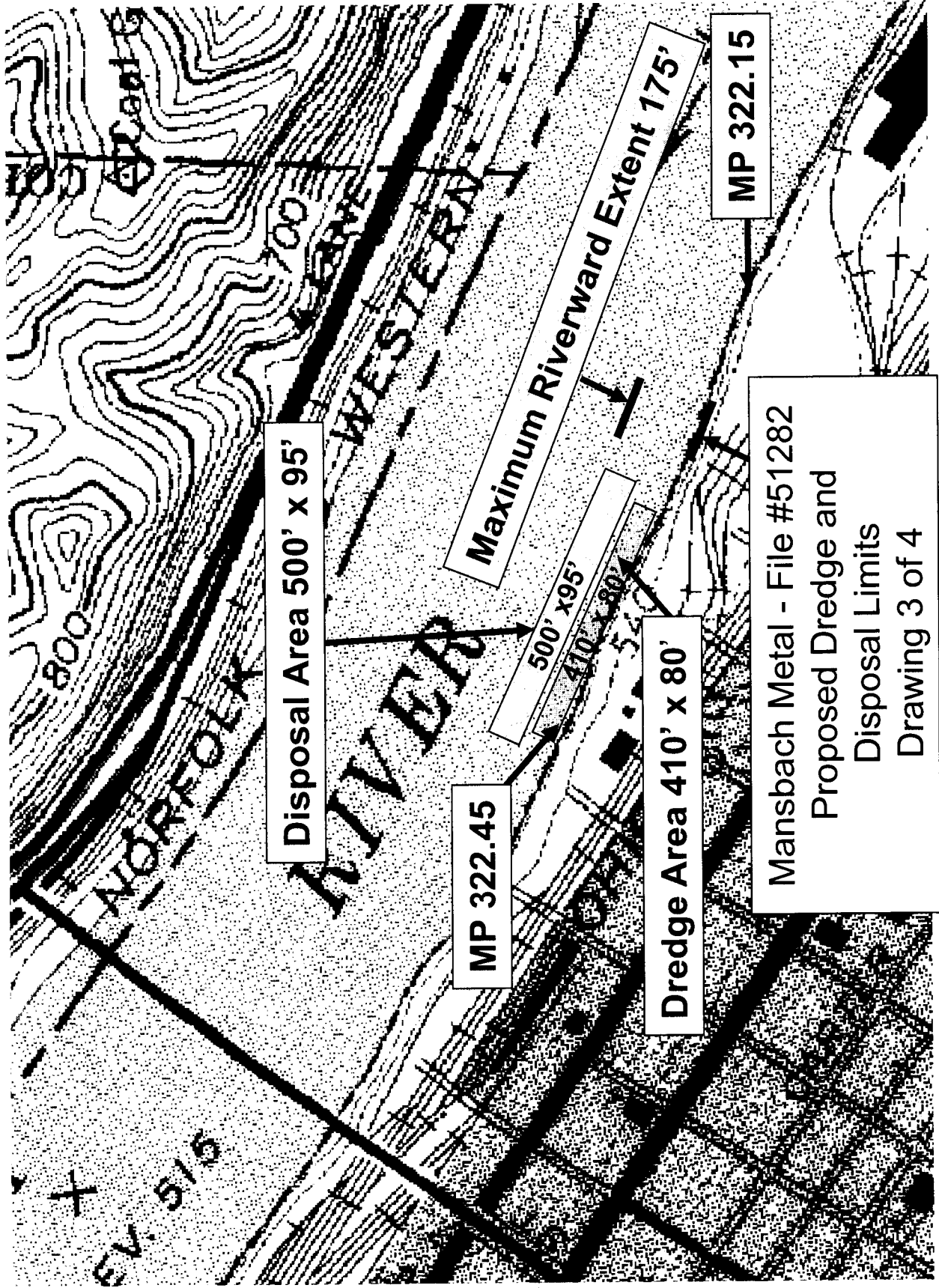


Ginger Mullins, Chief
Regulatory Branch

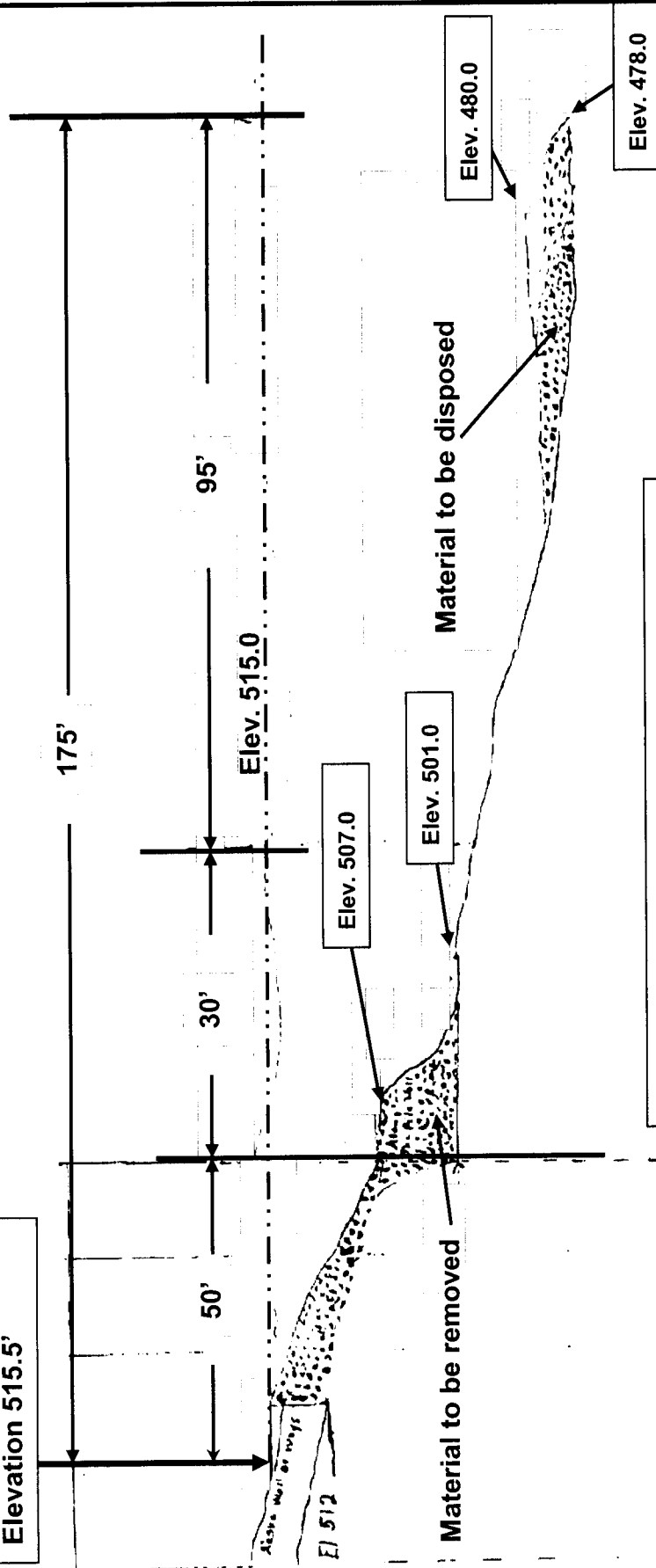
(K,O)



Mansbach Metal - File #51282
MP 322.15-322.45
Existing facility Limits
Drawing 2 of 4



Waters edge at Normal
Pool Shore Line
Elevation 515.5'



Mansbach Metal - File #51282
Proposed Dredge and
Disposal Profile View
Drawing 4 of 4